

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Charles McNeil,)	Civil Action No. 5:12-2880-MGL
)	
Plaintiff,)	
)	
v.)	
)	
Dr. Alewine, Nurse Owens, Nurse A.)	<u>OPINION AND ORDER</u>
Brown, et al.,)	
)	
Defendants.)	
_____)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Kaymani D. West, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. (ECF No. 178.)

Plaintiff Charles McNeil (“Plaintiff”) proceeding *pro se* filed this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. (ECF No. 1.) On January 20, 2014, Defendants J. Glenn Alewine, Gregory S. Washington, Janice Phillips, John B. Tomarchio, John G. Barkley, Percy Jones, Robert M. Stevenson, III, Sharonda L. Sutton, Sherrell A. Orange, Takisha A. Smith, Yvonne S. Munro, Annette W. Brown, Geneva Walters, Tianna Randolph (incorrectly named as Nurse Randall), Chelsea Neal-Johnson, Wanda Brown, Amy Owens, Seraphine U. Niati (incorrectly named as Griati) and Kerry Cloud-Perry (“Defendants”) moved for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. (ECF No. 164.) Defendant Celestine Butler (“Defendants”) filed a Motion for Summary Judgment on January 21, 2014. (ECF No. 167.) The Magistrate Judge recommends that the case as to these Defendants be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. Plaintiff was advised of her right to file objections to the Report and Recommendation. (ECF No. 178-1.) However, he has not done so and objections were due on April 14, 2014. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

Having reviewed the record in this case, the applicable law, and the Report and Recommendation for clear error, and finding none, the court adopts and incorporates the Report and Recommendation by reference. As such, this action is DISMISSED with prejudice as to Defendants J. Glenn Alewine, Gregory S. Washington, Janice Phillips, John B. Tomarchio, John G. Barkley, Percy Jones, Robert M. Stevenson, III, Sharonda L. Sutton, Sherrell A. Orange, Takisha A. Smith, Yvonne S. Munro, Annette W. Brown, Geneva Walters, Tianna Randolph, Chelsea Neal-Johnson, Wanda Brown, Amy Owens, Seraphine U. Niati, Kerry Cloud-Perry and Celestine Butler for failure to prosecute.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
April 22, 2014.